

who provided notification within 30 calendar days of the receipt of the written notice described in § 204.4(c).

(b) The Commission will provide a copy of the record to the debtor and advise him/her to furnish available evidence to support his or her position. Upon receipt of the evidence, the written record of indebtedness will be reviewed and the debtor will be informed of the results of that review.

(c) Pending the resolution of a dispute by the debtor, transactions in any of the debtor's accounts maintained by the Commission may be temporarily suspended. Depending on the type of transaction, the suspension could preclude its payment, removal, or transfer, as well as prevent the payment of interest or discount due thereon. Should the dispute be resolved in the debtor's favor, the suspension will be immediately lifted.

(d) During the review period, interest, penalties, and administrative costs authorized under the Federal Claims Collection Act of 1966, as amended, will continue to accrue.

#### § 204.7 Hearing.

(a) A debtor will be provided a reasonable opportunity for an oral hearing by the Commission's designee when:

(1) (i) By statute, consideration must be given to a request to waive the indebtedness;

(ii) The debtor requests waiver of the indebtedness; and

(iii) The waiver determination rests on an issue of creditability or veracity; or

(2) The debtor requests reconsideration and the Commission's designee determines that the question of indebtedness cannot be resolved by reviewing the documentary evidence.

(b) In cases where an oral hearing is provided to the debtor, the Commission's designee will conduct the hearing, and provide the debtor with a written decision 30 days after the hearing.

#### § 204.8 Written agreement for repayment.

If the debtor requests a repayment agreement in place of offset, the Commission has discretion and should use sound judgment to determine whether to accept a repayment agreement in

place of offset. If the debt is delinquent and the debtor has not disputed its existence or amount, the Commission will not accept a repayment agreement in place of offset unless the debtor is able to establish that offset would cause undue financial hardship or be unjust. No repayment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within ten business days of the Commission's request for the statement. At the Commission's option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR part 103 and 31 CFR 5.3.

#### § 204.9 Administrative offset procedures.

(a) If the debtor does not exercise the right to request a review within the time specified in § 204.4, or if as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with this subpart without further notice.

(b) *Travel advance.* The Commission will deduct outstanding advances provided to Commission travelers from other amounts owed the traveler by the agency whenever possible and practicable. Monies owed by an employee for outstanding travel advances that cannot be deducted from other travel amounts due that employee will be collected through salary offset as described in subpart B of this part.

(c) *Requests for offset to other Federal agencies.* The Chairperson (or his or her designee) may request that a debt owed to the Commission be administratively offset against funds due and payable to a debtor by another Federal agency. In requesting administrative offset, the Commission, as creditor, will certify in writing to the Federal agency holding funds of the debtor:

- (1) That the debtor owes the debt;
- (2) The amount and basis of the debt; and

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(3) That the Commission has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations and the applicable provisions of 4 CFR part 102 with respect to providing the debtor with due process.

(d) *Requests for offset from other Federal agencies.* Any Federal agency may request that funds due and payable to its debtor by the Commission be administratively offset in order to collect a debt owed to such Federal agency by the debtor. The Commission shall initiate the requested offset only upon:

(1) Receipt of written certification from the creditor agency:

- (i) That the debtor owes the debt;
- (ii) The amount and basis of the debt;
- (iii) That the agency has prescribed regulations for the exercise of administrative offset; and

(iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of 4 CFR part 102, including providing any required hearing or review.

(2) A determination by the Commission that collection by offset against funds payable by the Commission would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such offset would not otherwise be contrary to law.

### § 204.10 Civil and Foreign Service Retirement Fund.

(a) Unless otherwise prohibited by law, the Commission may request that monies due and payable to a debtor from the Civil Service Retirement and Disability Fund, the Foreign Service Retirement Fund or any other Federal retirement fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments, debts owed the United States by the debtor. Such requests shall be made to the appropriate officials of the respective fund servicing agency in accordance with such regulations as may be prescribed by the Chairperson of that agency. The requests for administrative offset will certify in writing the following:

(1) The debtor owes the United States a debt and the amount of the debt;

(2) The Commission has complied with applicable regulations and procedures; and

(3) The Commission has followed the requirements of the Federal Claims Collection Standards as described in this subpart.

(b) Once the Commission decides to request offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the fund servicing agency may identify and flag the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the fund. This will satisfy any requirements that offset be initiated prior to expiration of the statute of limitations.

(c) If the Commission collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the Commission shall act promptly to modify or terminate its request for offset.

(d) This section does not require or authorize the fund servicing agency to review the merits of Commission's determination relative to the debt.

### § 204.11 Jeopardy procedure.

The Commission may effect an administrative offset against a payment to be made to the debtor prior to the completion of the procedures required by § 204.4(c) if failure to take the offset would substantially jeopardize the Commission's ability to collect the debt, and the time available before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset shall be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Commission shall be promptly refunded.

### §§ 204.12–204.29 [Reserved]

## Subpart B—Salary Offset

AUTHORITY: 5 U.S.C. 5514.

SOURCE: 58 FR 38520, July 19, 1993, unless otherwise noted.